

ENGINEERING MEMORANDUM

CPED

Community Planning & Economic Development
105 5th Avenue South, Suite 200
Minneapolis, Minnesota 55401-2534

April 26, 2010

TO: Todd Schmidt

FROM: Mike Williams

SUBJECT: Rejection letter for Official Publication # 7290 bid.

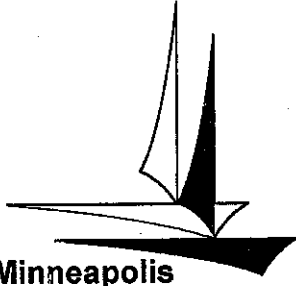
The bid submitted by TMS Construction Inc. for official publication # 7290 has been reviewed by CPED. The results of the review find the contractor, TMS Construction Inc., having multiple violations with the City of Minneapolis. CPED is rejecting TMS Construction Inc. bid on the grounds of part (a), (b), (d), (e) & (f) of the bid specification Evaluation Criteria.

Engineering Inspector



Mike Williams

cc: Cheryl Groettum
Darrell Washington



Minneapolis
City of Lakes

**Department of
Regulatory Services
and Emergency Preparedness**

Problem Properties Unit

250 South 4th Street, Room 401
Minneapolis, MN 55415-1316

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Violation History Report Log
RE: TMS Construction Inc., Todd Schmidt

Violation: Fail to complete demolition work by contract timeline

TMC was the successful bidder to demolish the four structures at; 2842 31st Avenue South, 2800 28th Avenue South, 1403 26th Street East, and 2109 Irving Avenue North. These structures were to be demolished by no later than 12-23-09. On 12-27-09 TMS had yet to start the demolition process on these structures. They then asked, and were given, an extension to complete the demolition until 1-27-10. These jobs were finished on 1-29-10, with the exception of 2800 28th Ave. So. which remains ungraded as of 2-25-10.

Violation: Fail to complete demolition work by contract timeline

TMC was the successful bidder to demolish the two structures at; 1530 Hillside Avenue North, and 2939 Newton Avenue North. These structures were to be demolished by no later than 12-31-09. These jobs were completed on 1-29-10.

Violation: Fail to complete demolition work by contract timeline

TMC was the successful bidder to demolish the three structures at 712 11th Ave. S.E.; 2121 14th Ave. So.; and 611 36th St. E. These structures were to be demolished by no later than 2-15-10. These jobs are not completed as of 2-26-10.

Violation: Fail to use water to dampen demolition site.

On 2-12-10 Building Inspector Reil found TMS Construction actively demolishing a structure at 3303 38th Ave. So., without watering the site, or calling for a pre-demolition inspection. A \$200.00 administrative citation was issued. Inspector Murphy observed TMS conducting a demolition without watering the site at 2109 James Ave. No. on

January 11, 2010, and the job was stopped until a water truck arrived. MCO. 117.100. and 117.60.

Violation: Use of City fire Hydrant without a permit.

On 2-12-10 TMS Construction tapped into a City of Minneapolis Fire Hydrant at the intersection of 33rd St. and 38th Ave. So. without a permit. Earlier this same day they had been cited for conducting a structure demolition without watering the site for dust control. TMS failed to report to the Water Department that they had used a fire hydrant during cold weather and thus Water Department crews were not dispatched to properly drain the hydrant. This hydrant then froze overnight, was damaged, created icy conditions on the public streets, and rendered it unusable for emergencies for several days. The repairs to this hydrant were billed at \$430.42. This is violation of MCO 509.

Violation: Use of City fire Hydrant without a permit.

A review of records found that TMS Construction used several Minneapolis fire hydrants in January and February of 2010, without obtaining the required permits. The addresses are 1403 26th St. E.; 2800 28th Ave. S.; 2842 31st Ave. S.; 3303 38th Ave. So.; and 3428 Cedar Ave. Each of these hydrants had to be checked for freeze damage and service availability. Although no emergencies occurred near any of these hydrants during this time, it could have endangered public safety in many ways. This is a violation of MCO 509.

Violation: Fail to prevent nuisances.

TMS Construction used a water truck on January 11th and 12th, 2010 that leaked water onto the public streets and sidewalks, froze, and created a hazard for vehicles and pedestrians near 2109 Irving Ave. No. This is violation of MCO 117.100

Violation: Fail to prevent nuisances.

TMS Construction failed to properly fence off sites with open holes or other hazards present on January 12 and 13, 2010, at 2109 Irving Ave. No. A verbal warning was given by Inspector Murphy on January 11th, 2010. On January 22nd, 2010 a site hole was left unfenced at 2842 31st Ave. So. On January 28th, 2010, at 1403 26th St. E. basement hole was observed poorly fenced. This is a violation of MCO 117.100.

Violation: Erosion Control Required.

At 2800 28th Ave. So., TMS Construction performed a structure demolition and had the site prepared for final grade and were found to have dumped several loads of fill and black dirt on the site, apparently to stockpile for use at other Minneapolis work sites. On 2-18-10 Minneapolis Environmental Inspector Grones issued orders that erosion control was required at the site as mud was running off of the piles on the site to the streets and sidewalks, storm drains etc. On 2-19-10 the violation existed and a \$200.00 citation was issued. TMS again failed a re-inspection on 2-24-10 and was given a one day extension. On 2-25-10 the erosion control violations still existed and a \$400.00 citation was issued. Photographs of the site clearly show serious violations at this site, and one pile of dirt totally blocked the public sidewalk and rendered in impassible.

Violation: Fail to pay subcontractors.

Mike Williams from CPED received a letter from Inter City Water and Sewer on 2-22-10 which stated that they had been paid by TMS Construction for two water and sewer disconnects that they performed in September of 2009 that were City of Minneapolis owned properties. The property addresses were 3035 6th Street N. (\$2300.00) and 2213 16th Ave. S. (\$2700.00).

Additional notes:

Steve Magner, City of St. Paul. 651-266-1928 office 651-248-4323 Cell. Steve called Grant Wilson on 2-23-10 and explained that they no longer use TMS Construction for demolition work as they failed to satisfactorily complete a demo. contract on the 600 block of Wells Ave. in St. Paul in 2008. TMS was over 60 days late starting the job and required additional notices to finish site work, etc. TMS has been placed on their Not Responsible Bidder list.

Regulatory Services staff reports that on several occasions TMS Construction called for inspections without sufficient time to respond, and when the Inspectors would arrive, TMS would not be ready for the inspection. This created avoidable delays and wasted time for City staff.

On January 29, 2010 TMS Construction submitted a bill for a demolition job at 1530 Hillside Ave, however the bill lacked an asbestos manifest and recycling statement. This required additional clerical work time to request the additional documents.

Evaluation Criteria

Each bid will also be approved or rejected based upon the following criteria:

- (a) performance under previous contracts with the City including timeliness in completion of work and responsiveness to communications and related requests by City staff/officials;
- (b) compliance under previous contracts with the City with the following provisions in the Minneapolis Code of Ordinances: (i) Chapter 117 relating to Wrecking, (ii) Chapter 277 relating to Building Wrecker Licenses, and (iii) Chapter 509 relating to water hydrant use permits;
- (c) compliance with all Federal, State, or local environmental laws and regulations;
- (d) past performance and fulfillment of demolition contracts entered into with the City and other government agencies, including but not limited to, Hennepin County, the City of St. Paul and other political subdivisions that have contracted within the past three years for the demolition of structures and other improvements;
- (e) compliance with Minnesota Statutes, Section 471.425 regarding timely payment of subcontractors; and
- (f) other metrics including a history by the each bidder in its timely procurement of required permits, insurance or bonds, timely submission of billing documents, lien waivers if requested, and timely requests for site inspections so as to not to create avoidable delays for City staff.

[illegible]